

### **REMARKS**

Claims 1-5 are now currently pending in the present application. No claim has been amended in the present response.

#### ***Rejection Under 35 U.S.C. §102***

Claims 1-4 stand rejected under 35 U.S.C. §102 as being anticipated by USP 4,929,564 to Kainosho et al. (hereinafter “Kainosho”). Applicants respectfully traverse.

The present claims are directed to a vapor phase growth method for growing an epitaxial layer. However, Kainosho discloses the heat treatment of InP substrates. This is not the same as the presently claimed invention. Kainosho does not at all teach or suggest growing an epitaxial layer.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Since Kainosho does not teach each and every element of the presently claimed invention, Kainosho cannot be properly applied as an anticipatory reference. Applicants respectfully request reconsideration and withdrawal of the outstanding rejection.

***Rejection Under 35 U.S.C. §103***

Claim 5 stands rejected under 35 U.S.C. §103 as being rendered obvious by Kainosho in view of USP 4,673,446 to Thompson et al. (hereinafter "Thompson"). Applicants respectfully traverse.

As noted above, in the context of 35 U.S.C. §102 rejection, Kainosho fails to teach or suggest growing an epitaxial layer. In Thompson, the oxygen ion implantation to an InP substrate is disclosed. The combination of Kainosho and Thompson are unrelated to the presently claimed invention, in that the techniques disclosed by them are different from the epitaxial growth technique that is claimed.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection.

In view of the foregoing, Applicants believe the pending application is in condition for allowance. A Notice of Allowance is earnestly solicited.


Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Reg. No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

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